

**REMARKS/ARGUMENTS**

Reconsideration and allowance of this application are respectfully requested.

Currently, claims 1-2, 5-11 and 27-33 are pending in this application.

**Objection to the Drawings:**

The drawings were objected to because “[I]n Fig. 1, the signal line for air flow meter (14) should have an arrow pointing to the ECU; and numeral 28 is not described in the specification.” This objection is not understood by Applicant since section 10 of Form PTOL-326 of the Office Action indicates that the drawings filed April 1, 2004 have been accepted. The Preliminary Amendment filed April 1, 2004 included drawing changes and a replacement sheet of drawings for Fig. 1 which eliminated reference numeral 28 and added an arrow pointing to the ECU. In an abundance of caution, however, Applicant has provided copies of the annotated sheet showing drawing changes and replacement sheet of drawings filed April 1, 2004 as part of the Preliminary Amendment. Applicant thus respectfully requests that the objection to the drawings be withdrawn.

**Rejection Under 35 U.S.C. §102:**

Claim 2 was rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Tsunooka (U.S. ‘524). Applicant respectfully traverses this rejection.

For a reference to anticipate a claim, each element must be found, either expressly or under principles of inherency, in the reference. Tsunooka fails to disclose each element of the claimed invention. For example, Tsunooka fails to disclose “wherein the ignition retarding control means starts the ignition retarding control after a predetermined time lapses since a start,” as required by independent claim 2.

Column 12, lines 5-6 of Tsunooka explicitly discloses “the ignition retard control is preformed upon a start of the engine 10 (emphasis added).” Also, it is apparent from Figs. 4A-4C of Tsunooka that time  $t_{10}$  represents a time of starting the engine, because the throttle opening and the intake manifold pressure start is varied at the time  $t_{10}$ . In particular, Fig. 4A shows the ignition timing starting to be retarded at time  $t_{10}$ . That is, the ignition retarding control starts the ignition retarding control when the engine is started. In contrast, claim 2 requires that the ignition retarding control is started after a predetermined time lapses since a start of the engine.

In Figs. 4A-4C of Tsunooka, the broken line represents the case wherein the brake negative pressure is sufficient, and the solid line represents the case where the brake negative pressure is insufficient. If the ignition retarding control was performed after a predetermined time lapses since a start in Tsunooka, the retard starting point of the solid line would lag behind the broken line. However, in both lines, the ignition retarding control is started at the time of  $t_{10}$  in Fig. 4A. The ignition retard control required by claim 2 is thus not performed in Tsunooka.

Accordingly, Applicant respectfully requests that the rejection of claim 2 under 35 U.S.C. §102 be withdrawn.

**New Claims:**

New claims 27-33 have been added to provide additional protection for the invention. Applicant submits that each of these claims is directed to the elected species of Figs. 2-3. For example, claims 27 and 28 depend from claim 2. Claims 27 and 28 are clearly directed to the elected species of Figs. 2-3 as described in page 27 to page 28, line

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16. Claims 27-28 are allowable at least for the reasons discussed above with respect to base independent claim 2.

Independent claim 29 and claims 30-33 which depend therefrom require, *inter alia*, "wherein execution of the ignition retarding control is started after a predetermined time lapses since a start." Applicant thus submits that claims 29-33 are allowable.

**Conclusion:**

Applicant believes that this entire application is in condition for allowance and respectfully requests a notice to this effect. If the Examiner has any questions or believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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